WHEREAS the Council of The Corporation of the City of Windsor has, pursuant to the Municipal Act, 2001, Section 10 as amended, the authority to pass By-laws for prescribing the height and description of fences;

NOW, THEREFORE, THE COUNCIL OF THE CORPORATION OF THE CITY OF WINDSOR HEREBY ENACTS AS FOLLOWS:

SECTION 1 TITLE

1.1 This By-law may be referred to as the Fence By-law.

1.2 By-law 160-2010 applies to fences used as a swimming pool enclosure.

SECTION 2 DEFINITIONS

In this By-law:

2.1 CHIEF BUILDING OFFICIAL means the Chief Building Official of the City or his/her designate.

2.2 CITY means The Corporation of the City of Windsor.

2.3 CONSTRUCT means to build and/or to permit to build or erect, alter, relocate or cause any material alteration to a fence. Without limiting the generality of the foregoing construct shall be taken to include any work in preparation to construct, and CONSTRUCTED has a corresponding meaning.

2.4 COUNCIL means the Council of the City.

2.5 EFFECTIVE GRADE LEVEL means the highest level of ground at a fence location within a horizontal distance of 0.5 m either side of the fence.

2.6 FARM means an agricultural operation as defined in the Farming and Food Production Protection Act, 1998 and includes such operation that is not carried on with the exception of gain but otherwise meets the definition of the Act.

2.7 FRONT YARD as defined in the applicable Zoning By-law.

2.8 FENCE means a barrier, guard, railing or enclosure of any type constructed, used, or intended to enclose and delineate property and includes a screening fence as defined in the Zoning By-law and any hedge used in a visibility triangle. Structures designated by any By-law or municipal authority or agreement as sound barriers, or sound barrier walls, or any other structure governed under the Ontario Building Code are not fences. Earth berms or other natural or man-made similar topographic features are not fences. (amended By-law 171-2013, Oct. 21/13)

2.9 HEDGE means a boundary formed by closely growing bushes or shrubs.

2.10 HIGHWAY means a highway as defined by the Municipal Act as amended from time to time.
2.11 **IN GOOD REPAIR** means in compliance with the Maintenance Standards in Section 7 of this By-law.

2.12 **OFFICER** means a *person* who has been assigned the responsibility of enforcing this By-law.

2.13 **OWNER** includes the registered owner and the *person* for the time being managing or receiving the rent of the land or premises in connection with which the word is used, whether on the *person’s own account or as agent or trustee of any other person*, or who would receive the rent if such land and premises were let, and shall also include a lessee or occupant of the *property* who, under the terms of a lease, is required to repair and maintain the *property* in accordance with the standards of this By-law.

2.14 **PERSON** includes an individual, an owner, occupant, agent, contractor, tenant, firm, proprietorship, partnership, association, syndicate, trustee, corporation, department, bureau or mortgagee.

2.15 **PROPERTY** means lands or structures on which a *fence* is located.

2.16 **REAR YARD** as defined in the applicable Zoning By-law.

2.17 **SIDE YARD** as defined in the applicable Zoning By-law.

2.18 **TEMPORARY BARRICADE** means a structure described in Section 6 of this By-law, *used* for the purposes of temporarily enclosing an excavation or other hazard.

2.19 **UNSAFE CONDITION** means any condition that in the opinion of the **Officer** is an immediate hazard to the health or safety of any *person(s)*.

2.20 **USE**, when used as a verb means anything done and/or permitted or allowed to be done by any *person* for the purpose of making use of any parcel of land, building, or structure or any part(s) thereof and includes the maintenance of anything done or erected in conjunction with those uses, lands, buildings, structures or part(s) thereof, and **USED** has a corresponding meaning.

2.21 **ZONING BY-LAW** means any Zoning By-law in effect for the *City*.

2.22 **VISIBILITY TRIANGLE** means the area within a triangle formed by measuring a prescribed distance along two specified intersecting lines and a third line joining the terminal points of the two measured lines.

### SECTION 3   ENFORCEMENT

3.1 The **Chief Building Official** shall administer this By-law as amended.

3.2 This By-law shall be enforced by the **Chief Building Official** and any **Officer** so designated by the **Chief Building Official**.

### SECTION 4   RESIDENTIAL FENCE REGULATIONS

4.1 No *person* shall on any property used for any residential purpose, *construct, use* or permit to be maintained a *fence* greater in height than:

   (a) 2.2 m from *effective grade level* in any *side yard* or *rear yard* excluding a *hedge*.

   (b) 1.2 m from *effective grade level* in any *front yard* including a *hedge*.

   (c) **Deleted by By-Law 195-2014, December 15, 2014**

   (d) 2.5 m from *effective grade level* on any *property* boundary abutting any publicly owned walkway or alley as designated by a registered plan of subdivision, not adjacent to a road excluding a *hedge*. 
(e) 2.2 m from the walking surface of any raised deck or to the height of the eave, whichever is less.

(f) 0.9 m from effective grade within a visibility triangle as described in section 4.3.

4.2 The height limitation in Section 4.1 of this By-law shall not apply to decorative post caps and other similar features. The height limitation in Section 4.1 shall not apply to a hedge if the hedge is located in the side yard or rear yard unless the hedge is located in any rear yard of any lot situated on the north side of Riverside Drive East between Strabane Avenue and Lakeview Avenue.

4.3 Despite any other provisions of this By-law, in the case of a corner lot or a lot where the highway bends to form an angle not more than 135 degrees, no person shall construct, allow or permit to be maintained on any property a fence 0.9 m above the effective grade level within a visibility triangle formed by the intersecting curbs, or the edge of pavement where no curbs exist, or the projections thereof, and a straight line connecting them 7.5 m from their point of intersection, unless such fence is constructed of unobstructed chain link or metal pickets spaced no closer than 90 mm and complies with the height limitations identified in section 4.1.

4.4 No person on any property used for residential purpose, on the North Side of Riverside Drive East between Drouillard Road and Lakeview Avenue, may construct, use or permit to be maintained the following:

(a) A fence or hedge greater in height than 1.2 m from effective grade level in any rear yard (water side).

(b) A fence or hedge greater in height than 2.2 m from effective grade level in any side yard.

(c) A hedge greater in height than 2.4 m from effective grade level in any front yard (road side).

(d) A fence greater in height than 1.2 m from effective grade level in any front yard (road side).

(Section 4.4 – added B/L 195-2014, Dec. 15/14)

SECTION 5 NON RESIDENTIAL FENCE REGULATIONS

5.1 No person shall on any property used for any non-residential purpose construct, use, or permit to be maintained a fence unless:

(a) such fence has a maximum height not exceeding 3.0 m;

(b) such fence is not electrified except for a fence on a farm for the keeping of livestock or the protection of livestock or crops from animals provided that the fence meets the requirements of any applicable Canadian Standards Association Standard.

(c) such fence is located no more than 1.0 m of the nearest portion of any wall of an adjacent residential main building;

(d) such fence does not incorporate barbed or razor type wire in its construction unless that portion of fence which is made of barbed or razor wire is located no closer than 2.15 m above the effective grade level at any point.

(e) such fence is located at least 3.5 m from the nearest curb, or the edge of pavement where no curb exist, where such fence abuts any existing public or private driveways, lanes, alleys, roadways or any other similar access area in any side yard, rear yard or front yard.

5.2 No person shall construct, allow or permit to be maintained, a fence consisting of single strand wire type construction unless it is so constructed so as to be readily visible to any person at all times and does not in any way create an unsafe condition to any person.

5.3 Despite sections 4.1 and 4.2 of this By-law, no person shall construct or use any fence on residential property along the property line of any commercial, industrial
or institutional use in excess of the prescribed height in Sections 4.1 and locations as permitted in Section 5.1(e) of this By-law.

5.4 Every owner shall maintain their fence in good repair and in compliance with the Maintenance Standards, Section 7, of this By-law.

SECTION 6 TEMPORARY BARRICADE

6.1 Excluding any hoarding on the highway, no person shall construct, allow or permit to be maintained, a temporary barricade unless:
   a) it consist of a minimum 1.2 m high mesh fence having a mesh not greater than 38 mm, with a steel T-bar support post every 3.0 m maximum horizontal distance and a 9 gauge galvanized steel wire located at the top and bottom of such fence; or
   b) it is constructed of material that will provide an equivalent degree of safety and has been approved by the Chief Building Official.

SECTION 7 MAINTENANCE STANDARDS

7.1 Every fence shall be:
   a) stable;
   b) vertical;
   c) constructed of materials of good quality;
   d) suitable for the purpose, and
   e) constructed and supported in a manner commensurate with the design of the entire fence.

7.2 Every person who constructs, uses or permit to be maintained a fence shall keep such fence:
   a) in good repair;
   b) in a safe and structurally sound condition;
   c) free from accident hazards, and
   d) protected by paint, preservative or other weather resistant material, except for a hedge or wooden fences made of cedar, redwood or treated wood.

SECTION 8 ORDERS

8.1 An Officer who finds a contravention of this By-law or an unsafe Condition may make an Order directing compliance with this By-law and may require the Order to be carried out within such time as is specified in the Order.

8.2 The Order may be served on the person whom the Officer believes is contravening the By-law, by:
   a) personal service;
   b) prepaid mail to the person’s address shown on the last revised assessment roll and may also be sent to the last address known to the City of the owner if it differs from that on the assessment roll. In which case the Order shall be deemed to have been served on the fifth day after mailing;
   c) posting a copy of the Order on the property; or
   d) any combination of the above as the Officer deems necessary.

8.3 Every Order delivered, sent or posted shall identify the property by street number and name, and/or legal description.

8.4 Power of Entry re: Inspections
Pursuant to section 436 of the Municipal Act, the Chief Building Official or an Officer may enter on property at any reasonable time for the purpose of carrying out an inspection to determine whether or not the following are being complied with:
   a) this By-law;
   b) an Order made under this By-law.

8.5 Inspection Powers
For the purposes of an inspection under this section, an Officer may:

a) require information from any person concerning a matter related to the inspection; and

b) alone or in conjunction with a person possessing special or expert knowledge, make examinations or take tests, samples or photographs necessary for the purposes of the inspection.

8.6 Inclusion
Every Order delivered, sent, posted or published shall specify that if the owner defaults in doing the thing(s) required to be done under this By-law by the date specified in the Order, the Chief Building Official may take action to cause the City to do the thing(s) required to be done as specified in the Order and that the City may recover the costs of doing the thing(s) required to be done from the owner and that the City may recover the costs by action or by adding the costs to the tax roll and collect them in the same manner as taxes.

8.7 Entry onto property
Where the City proceeds with action under s. 10.1 of this By-law, the Chief Building Official or designate, or an agent appointed by the City may enter onto the property accompanied by any person(s) under his or her direction and with the appropriate equipment as required to bring the property into compliance with this By-law.

SECTION 9 OFFENCES

9.1 Offence
Every person who contravenes any of the provisions of this By-law is guilty of an offence and upon conviction is liable to a fine and any other penalties as provided for in the Municipal Act, as amended.

SECTION 10: NON-COMPLIANCE WITH ORDER

10.1 If an owner or person, as the case may be, fails to comply with an Order issued under section 8.1, the Chief Building Official may take action to do the thing(s) required to be done as specified in the Order at the expense of the owner or person directed or required to comply with the Order.

10.2 Recovery of Expense
If the City takes action to do the thing(s) required to be done as specified in the Order, the costs of such action may be added to the tax roll and collected in the same manner as property taxes.

10.3 No person shall hinder or obstruct, or attempt to hinder or obstruct;

a) Any Officer in the performance of a duty under this By-Law, or

b) Employees or Agents authorized to take action to do the thing(s) required to be done as specified in the Order.

SECTION 11 VALIDITY AND SEVERABILITY

11.1 In the event that any portion of this By-law shall be deemed to be invalid, illegal or unenforceable, it shall not affect the validity, legality or enforceability of any other portion of this By-law.

SECTION 12 REPEAL AND TRANSITION

12.1 By-law Number 266-2004 and all amendments thereto are hereby repealed.
SECTION 13   EFFECTIVE DATE

13.1 This By-law shall come into force and take effect on the day of the final passing thereof.

EDDIE FRANCIS, MAYOR

CITY CLERK